IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 3060 of 2007()

AGAINST THE ORDER IN LP.47/02 IN
CC.61/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PATTAMBI

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PETITIONER: 1ST ACCUSED

MAMMI @ VAPPUTTY, S/O. MOHAMMEDKUTTY,
POTTAMMEL VEEDU, KIZHMURI, NADUVATTOM,
OTTAPALAM TALUK.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING S.I. OF POLICE,
PATTAMBI POLICE STATION.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 3060 Of 2007

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Dated this the 4th day of October, 2007

ORDER

Petitioner faces indictment in a prosecution under Section 323 r/w 34 IPC. Altogether there were three accused persons. Cognizance has already been taken. The 1st and 2nd accused were not available for trial. The 3rd accused faced the trial. He was found not guilty and acquitted. The case against the petitioner(A1) and the co- accused (A2) was split up. The co-accused (2nd accused) has subsequently appeared before the learned Magistrate , it is submitted. The petitioner has not entered appearance so far. Coercive processes has been issued against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. The petitioner has now come before this Court with a prayer to quash the proceedings against him. Finallly at the time of hearing he only requests that his application for regular bail may be directed to be considered by the learned Magistrate, favourably on the date of surrender itself. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE